

EXHIBIT 70



Transcript of **Kate Kennedy**

Friday, April 8, 2022

National Coalition on Black Civic Participation, et al.
v. Jacob Wohl, et al.

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Reference Number: 114859

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 NATIONAL COALITION ON BLACK CIVIC
5 PARTICIPATION, MARY WINTER, GENE STEINBERG,
6 NANCY HART, SARAH WOLFF, KAREN SLAVEN, KATE
7 KENNEDY, EDA DANIEL, AND ANDREA SFERES,
8 Plaintiffs,
9 Civil Action No.:
10 20-cv-8668 (VM)(OTW)

11 People of the STATE OF NEW YORK, by its
12 attorney general, LETITIA JAMES, ATTORNEY
13 GENERAL OF THE STATE OF NEW YORK,
14 v.

15 JACOB WOHL, JACK BURKMAN, J.M. BURKMAN &
16 ASSOCIATES, LLC, PROJECT 1599, MESSAGE
17 COMMUNICATIONS, INC., ROBERT MAHANIAN, and JOHN
18 and JANE DOES 1-10,
19 Defendants.

20 -----X
21 April 8, 2022
22 1:04 p.m.
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24
25

26 REMOTE EXAMINATION BEFORE TRIAL of KATE
27 KENNEDY, the Plaintiffs in the above-entitled
28 action, taken on behalf of the Defendants, held
29 at the above date and time, and taken before
30 Dorene Glover, an RSR Reporter and Notary
31 Public within and for the State of New York.

1 A P P E A R A N C E S:

2

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1 party. There were groups for Black people and
2 there was us and there were women's groups. So
3 in a little bit of time, we would see them.

4 Q. What involvement, if any, do you
5 have with the American Communist Party?

6 MR. GOLD: Objection.

7 A. None at all.

8 Q. And what involvement, if any, do
9 you have with democratic socialists?

10 MR. GOLD: Objection.

11 A. None.

12 Q. So how did you first become
13 involved with this lawsuit?

14 A. We received -- actually, we had a
15 voicemail on our phone and it was getting
16 people information that was obviously wanted to
17 dissuade them from using vote-by-mail because
18 certain people might collect information that
19 would be to their detriment.

20 Q. Just to make it clear, when I refer
21 to the lawsuit, I'm referring to this case that
22 you are a plaintiff in, you know, the name of
23 the caption where you're a plaintiff, national
24 participation Mary Winter, Gene Steinberg,
25 Nancy Hart, Sarah Wolff, Kate Kennedy, Eda

1 A. I'm not sure I understand what you
2 mean exactly by intimidate.

3 Q. Well, it's in your complaint but in
4 your opinion, was the call meant to intimidate
5 Black people from not voting?

6 MR. GOLD: Objection.

7 A. Intimidate in the sense not in a
8 physical sense of intimidating someone but to
9 just try to, you know, make them stop thinking
10 about voting by mail to not do it.

11 Q. Were you intimidated by the
12 Robocall?

13 A. No, I wasn't.

14 Q. You know -- after, you know, after
15 analyzing the phone call and receiving the
16 phone call, do you believe the Robocall was
17 designed to intimidate a certain class of
18 voters?

19 MR. GOLD: Objection.

20 A. That is what I believed.

21 Q. Do you still believe it today?

22 A. Yes.

23 Q. So what specifically about the
24 Robocall was designed to intimidate?

25 MR. GOLD: Objection.

1 A. To suggest to people who listen to
2 the Robocall that if you put yourself in the
3 way, you know, receiving, if you put yourself
4 out there by sharing your data, for example,
5 with -- along with your vote, then there are
6 possibilities that people would use the
7 information that they had for you to -- I think
8 one of the things was to collect outstanding
9 credit card debt. There was one instance the
10 CDC using that information to get people to get
11 vaccinated, there was one about outstanding
12 warrants that if you had outstanding warrants,
13 that might come up if people got into those.

14 Q. What about all of the items that
15 you just stated was designed to intimidate
16 Black people?

17 MR. GOLD: Objection.

18 A. That was my belief. I thought that
19 it sounded pretty clear.

20 Q. Let's go through each one of those.
21 You had mentioned warrants, right?

22 A. Yes.

23 Q. So what about the warrant issue was
24 specifically targeted towards Black people?

25 MR. GOLD: Objection.

1 them not to vote which is not in their best
2 interests. If that's -- we do what we can to
3 register people to encourage them to vote and
4 not even necessarily as a democrat, just, you
5 know, be part of the -- to be part of the
6 citizenship as it were. It had nothing to do
7 with people, what kind of people they are.
8 It's true for everyone.

9 Q. Do you help in that process of
10 getting people to register to vote?

11 A. Yes, I do.

12 Q. What do you do for that?

13 A. Sometimes you go door to door.
14 Sometimes you have -- there have been times
15 there's been large get-togethers such as a
16 pride festival. There are people who have
17 table, and they help people and talk about
18 voting and that kind of thing.

19 Q. So you had mentioned also that in
20 the Robocall, you remember the Robocall talking
21 about outstanding debts?

22 A. Yes.

23 Q. What about outstanding debts in
24 particular was targeted towards the Black
25 community?

1 about you receiving a Robocall?

2 A. No.

3 Q. You have no idea as you sit here
4 today whether or not any members of the Black
5 community whatsoever are intimidated by this
6 Robocall?

7 MR. GOLD: Objection.

8 A. I think that some people would be.
9 Everybody reacts differently but I think some
10 people would be.

11 Q. That's just pure speculation?

12 MR. GOLD: Objection.

13 A. Same thing.

14 Q. After listening to the phone call
15 multiple times, do you think the Robocall was
16 designed to be threatening?

17 MR. GOLD: Objection.

18 A. I do think that.

19 Q. What specifically about the
20 Robocall leads you to believe that it was
21 designed to be threatening?

22 A. Well, it names at least three
23 different possible things that could happen.
24 If you voted by mail, that would be -- people
25 would not have those things happen to them.

1 Q. Can you be more specific what
2 things happened to them?

3 A. Having people -- the things having,
4 you know, targeting you for that vaccines,
5 warrant, you know, warrants and credit card
6 debt. Those three things.

7 Q. Do you think warrants could be
8 threatening towards White people too?

9 MR. GOLD: Objection.

10 A. Some, sure.

11 Q. Some?

12 A. Yeah. Might be.

13 Q. But warrants are threatening to all
14 Black people, correct?

15 MR. GOLD: Objection.

16 Q. Is that what your testimony is?

17 A. I don't think I ever said that.

18 Q. What are you saying?

19 MR. GOLD: Objection. Asked and
20 answered.

21 A. I agree. I answered everything
22 that I can think of just talking about this.
23 So I don't know more of what you want.

24 Q. So about what credit cards? You
25 think credit card debt could be a problem of

1 for the CDC to use mail-in voter records to
2 track vaccination, correct?

3 MR. GOLD: Objection.

4 Mischaracterizes the testimony.

5 Q. I'm just asking if you'd be okay
6 with that.

7 A. No, I don't because I think that it
8 was used to get people to do something that was
9 not in their best interests.

10 Q. What was used to get people to do
11 something not in their best interests?

12 A. Being threatened with people going
13 after them to get vaccines, I think was put
14 there to put them off voting.

15 Q. Was that done by the CDC?

16 A. Well, no. It was done by Project
17 1599.

18 Q. But my question is: You would be
19 okay considering the fact that we were in a
20 Pandemic that the CDC use all available means
21 possible including mail-in voter records to
22 track vaccination?

23 MR. GOLD: Objection.

24 A. I don't know the answer to that and
25 how these two things go together. I do think

1 think that that was the case.

2 Q. Turning to paragraph 52 again, what
3 specific statements were designed to scare the
4 listener as you allege in paragraph 52?

5 MR. GOLD: Objection. Asked and
6 answered.

7 A. It seems like it's kind of wrapped
8 up in the statements each of the statements in
9 the Robocall, the person's personal information
10 is false and designed to scare the listener.
11 So I can't see the whole thing but --

12 Q. But my question to you,
13 Ms. Kennedy, is what specifically in the
14 Robocall was meant to scare the listener?

15 MR. GOLD: Objection. Asked and
16 answered.

17 A. The threats of the things not
18 happening to people who vote by mail. We've
19 gone through the two or three things, those
20 things.

21 Q. Those three things were meant to
22 scare the listener?

23 A. Yeah.

24 Q. Turning to paragraph 53, what is
25 the basis of your allegation that the tone or

1 Q. Do you believe that the Robocall
2 was intended to disway people from voting?

3 A. Absolutely.

4 MR. SCHWARTZ: No further
5 questions.

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7 (Whereupon, at 3:33 p.m., the
8 examination of this witness was
9 concluded.)

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C E R T I F I C A T E

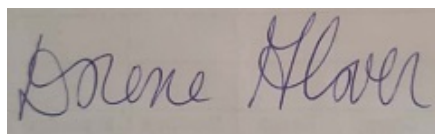
STATE OF NEW YORK)
 SS.:
COUNTY OF BRONX)

I, DORENE GLOVER, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and that
such examination is a true record of the
testimony given by that witness.

I further certify that I am not related
to any of the parties to this action by blood
or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 25th day of April, 2022.



DORENE GLOVER